



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,862	07/17/2003	Jan Boer	6-2-2-5	1756

7590 06/25/2008  
Ryan, Mason & Lewis, LLP  
90 Forest Avenue  
Locust Valley, NY 11560

EXAMINER
----------

MALEK, LEILA

ART UNIT	PAPER NUMBER
----------	--------------

2611

MAIL DATE	DELIVERY MODE
-----------	---------------

06/25/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**DETAILED ACTION**

***Response to Amendment***

1. The affidavit filed on 12/13/2007 under 37 CFR 1.131 has been considered but is ineffective to overcome the references used in the previous office action. Because:

a. The declaration is signed by three of the four named inventors of the present application. Applicants fail to submit sufficient documents showing the fourth inventor refused to sign the request or could not be reached after diligent efforts. Applicants' representative in "ATTORNEY AFFIDAVIT" submitted on 06/05/2008 states that he has not received any response from Ra'anan Gil to the five electronic mail messages addressed to Ra'anan Gil. Based on MPEP (see MPEP 605.03, 409.03(d) and 37 CFR 1.47) a statement of facts should be submitted by the Applicant or Applicant's representative to show inability to find or reach a non-signing inventor "after diligent effort". This statement should fully describe the exact facts which are relied on to establish that a diligent effort was made. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipts, and telegrams that support a finding that the non-signing inventor could not be found or reached should be made part of the statement. Applicants' representative does not

show any proof that the un-signing inventor could not be reached at his last mailing address.

- b. The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the references used in the previous office action. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). Submitted documents fail to show some important features of the invention such as generating the signal quality estimate by measuring a difference between one or more constellation points associated with the at least one reference field and one or more corresponding constellation points associated with the at least one field in the received signal.
2. Since the declaration filed on 12/13/2007 under 37 CFR 1.131 is ineffective the previous rejections are maintained.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEILA MALEK whose telephone number is (571)272-8731. The examiner can normally be reached on 9AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ghayour can be reached on 571-272-3021.

Art Unit: 2611

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Leila Malek  
Examiner  
Art Unit 2611

/L. M./  
/Leila Malek/  
Examiner, Art Unit 2611

/Mohammad H Ghayour/  
Supervisory Patent Examiner, Art Unit 2611